

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

FAIR ISAAC CORPORATION,

Court File No. 16-cv-1054 (WMW/DTS)

Plaintiff,

v.

FEDERAL INSURANCE COMPANY,
an Indiana corporation, and ACE
AMERICAN INSURANCE COMPANY,
a Pennsylvania corporation,

**DECLARATION OF
TERRENCE J. FLEMING IN
SUPPORT OF DEFENDANTS'
MOTION TO EXCLUDE EXPERT
REPORT AND TESTIMONY OF
NEIL J. ZOLTOWSKI**

Defendants.

I, Terrence J. Fleming, declare as follows:

1. I am an attorney at Fredrikson & Byron, P.A. and am one of the attorneys representing Defendants Federal Insurance Company ("Federal") and ACE American Insurance Company in this case.
2. Attached as **Exhibit 1** is a copy of the Expert Report of Neil Zoltowski.
3. Attached as **Exhibit 2** is a copy of the Expert Reply Report of Neil Zoltowski.
4. Attached as **Exhibit 3** is a copy of Supplemental Schedules to the Expert Report of Neil Zoltowski.
5. Attached as **Exhibit 4** is a copy of Amendment Two to the Software License and Maintenance Agreement dated December 28, 2006 (FICO0000226).
6. Attached as **Exhibit 5** is a copy of the FICO Global Price List (FICO0057386).

7. Attached as **Exhibit 6** is a copy of a FICO License Agreement (FICO0043609).

8. Attached as **Exhibit 7** is a copy of a FICO License Agreement (FICO0047399).

9. Attached as **Exhibit 8** is a copy of a March 22, 2016 email from Bill Waid to Tamra Pawloski, William Harlam, and Henry Mirollyuz (FED000351).

10. Attached as **Exhibit 9** is a copy of Deposition Exhibit 380 (FED017887).

11. Attached as **Exhibit 10** is a copy of the Software License and Maintenance Agreement dated June 30, 2006 (FICO0000208).

12. Attached as **Exhibit 11** is a copy of Amendment One to the Software License and Services Agreement dated August 1, 2006 (FICO0002118).

13. Attached as **Exhibit 12** is a copy of the Expert Report of Brooks Hilliard.

14. Attached as **Exhibit 13** is a copy of Federal's Sixth Supplemental Answer to Plaintiff's Interrogatory No. 16 and Sixth Supplemental Answer to Plaintiff's Interrogatory No. 17.

15. Attached as **Exhibit 14** is a copy of Federal's Seventh Supplemental Answer to Plaintiff's Interrogatory No. 17.

16. Attached as **Exhibit 15** is a copy of Federal's Sixth Supplemental Answer to Plaintiff's Interrogatory No. 18.

17. Attached as **Exhibit 16** is a copy of Federal's Fourth Supplemental Answer to Plaintiff's Interrogatory No. 19.

18. Attached as **Exhibit 17** is a copy of Federal's Fifth Supplemental Answer to Plaintiff's Interrogatory No. 20.

19. Attached as **Exhibit 18** is a copy of excerpts from the expert deposition of Neil Zoltowski.

20. Attached as **Exhibit 19** is a copy of FICO's Responses to Federal's First Set of Interrogatories.

21. Attached as **Exhibit 20** is a copy of FICO's First Supplemental Responses to Federal's First Set of Interrogatories.

22. Attached as **Exhibit 21** is a copy of FICO's Second Supplemental Responses to Federal's First Set of Interrogatories.

23. Attached as **Exhibit 22** is a copy of excerpts from the Expert Report of Christopher Bakewell.

24. Attached as **Exhibit 23** is a copy of the Settlement Agreement and Release between Oracle America, Inc. and Fair Isaac Corporation (FICO0038508).

25. Attached as **Exhibit 24** is a copy of the Settlement Agreement and Release between Dell Inc. and Fair Isaac Corporation (FICO0016269).

26. Attached as **Exhibit 25** is a copy of the Settlement Agreement and Release between Xerox Business Services, LLC and Fair Isaac Corporation (FICO0015524).

27. Attached as **Exhibit 26** is a copy of Plaintiff Fair Isaac Corporation's Written Answers to Questions from the Rule 30(b)(6) Deposition of William Waid.

28. Attached as **Exhibit 27** is a copy of FICO0062503.

29. Attached as **Exhibit 28** is a copy of FICO0062204.

- 30. Attached as **Exhibit 29** is a copy of FICO0062098.
- 31. Attached as **Exhibit 30** is a copy of FICO0062149.
- 32. Attached as **Exhibit 31** is a copy of FICO0062287.
- 33. Attached as **Exhibit 32** is a copy of FICO0063033.
- 34. Attached as **Exhibit 33** is a copy of FICO0062968.
- 35. Attached as **Exhibit 34** is a copy of excerpts from the expert deposition of Brooks Hilliard.
- 36. Attached as **Exhibit 35** is a copy of a Trial Order from *Positron Systems, Inc. v. Wyle Laboratories, Inc.*, No. BC595462, 2018 WL 3814691 (Cal. Super. June 1, 2018.)

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Dated: July 26, 2019

s/ Terrence J. Fleming